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February 5, 2001

Magalie Roman Salas
Secretary
Federal Communications Commission
Room CY-B402
445 12th Street, SW
Washington, DC 20554

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Re: Verizon-New England, CC Docket No. 01-9

Dear Ms Salas:

Enclosed are an original and one copy of the Comments of Fiber Technologies, LLC, in Opposition to Grant of Application in the above-captioned matter. I am sending 12 copies, by overnight delivery, to Susan Pie and one copy, also overnighted, to International Transcription Service.

Please contact me if you have any questions.

Very truly yours,

Charles B. Stockdale
Vice President and Corporate Counsel

Encl.

cc: Susan Pie
International Transcription Service

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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In the Matter of

Application by Verizon New England, Inc.,)
Bell Atlantic Communications, Inc. (d/b/a)
Verizon Long Distance), NYNEX Long)
Distance Company (d/b/a Verizon Enterprise)
Solutions), and Verizon Global Networks,)
Inc., for Authorization to Provide In-Region,)
InterLATA Services in Massachusetts)

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CC Docket No. 01-9

**COMMENTS OF FIBER TECHNOLOGIES, LLC,
IN OPPOSITION TO GRANT OF APPLICATION**

Fiber Technologies, LLC
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By Charles B. Stockdale,
Vice President and Corporate Counsel

February 5, 2001

TABLE OF CONTENTS

I.	INTRODUCTION.....	2
II.	VERIZON FAILS TO SATISFY ITS OBLIGATION TO RESPOND TO POLE ATTACHMENT LICENSE APPLICATIONS WITHIN 45 DAYS AND TO COMPLETE MAKE-READY WORK WITHIN A REASONABLE TIME.....	3
III.	RECOMMENDATIONS.....	5

APPENDIX A : STATEMENT OF MICHAEL BROWN

**Before the
FEDERAL COMMUNICATIONS COMMISSION
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CC Docket No. 01-9

**COMMENTS OF FIBER TECHNOLOGIES, LLC,
IN OPPOSITION TO GRANT OF APPLICATION**

Pursuant to the Public Notice of January 16, 2001, issued in the above-referenced matter, Fiber Technologies, LLC ("Fiber Technologies"), on behalf of itself and its wholly-owned subsidiary Fiber Technologies Networks, LLC ("FT Networks") (formerly named "Fiber Systems"), hereby submits comments in opposition to granting the authorization requested by Verizon New England, Inc., and the other applicants in this case ("Verizon").

In CC Docket No. 00-176 Fiber Technologies submitted Comments in Reply to the Opposition of RCN-BecoCom to Grant of Application. Fiber Technologies hereby requests that such comments submitted by it in CC Docket 00-176 be incorporated into the record of this new docket.

I. INTRODUCTION

Fiber Technologies is a competitive fiber provider that seeks to build fiber networks for lease to CLECs, IXC's, ISPs, and other communications carriers. The creation of such competitive broadband facilities will significantly boost the public good by providing such carriers with high-speed transport facilities that they will control and which they can customize to match their preferred technologies and to best meet their customers' needs. Construction of networks by Fiber Technologies and other competitive fiber providers, therefore, would enable competitive carriers to offer consumers more appealing options with respect to price, service options, and service quality.

Fiber Technologies is seeking to construct such competitive networks in and around Springfield, Massachusetts, and Worcester, Massachusetts. Successful completion of such networks will constitute a significant step toward achieving vital, multi-company, facilities-based competition in these local telecommunications markets, because the availability of the networks will enable numerous providers immediately to enter the markets without separately enduring the delays and costs necessarily associated with network construction. Verizon, however, has demonstrated unwillingness or inability to issue the pole licenses essential to Fiber Technologies' construction of the networks, thereby violating Section 271's checklist Item "3"¹ and maintaining Verizon's effective control over the Springfield and Worcester local markets.

¹ Section 271 (c)(2)(B)(iii) conditions entry of a Bell Operating Company into interLATA services on the company's provision of "[n]ondiscriminatory access to poles, ducts, conduits, and rights-of-way ... in accordance with the requirements of section 224".

II. VERIZON FAILS TO SATISFY ITS OBLIGATION TO RESPOND TO POLE ATTACHMENT LICENSE APPLICATIONS WITHIN 45 DAYS AND TO COMPLETE MAKEREADY WORK WITHIN A REASONABLE TIME.

Section 271(c)(2)(B)(iii) requires, as a condition of entry into interLATA services, that a Bell operating company such as Verizon comply with the requirements of Section 224 of the Communications Act of 1934. Section 224(b)(1) directs the Commission to adopt regulations governing access to poles and other right-of-way facilities. Section 224(c) permits a state to certify that it will regulate pole attachments.

The Commission's regulations require a pole owner to grant a request for pole access within 45 days unless a reason relating to capacity, safety, reliability, or engineering standards precludes granting such access.² Massachusetts's law contains an identical requirement.³ Verizon testified in the Massachusetts Department of Telecommunications and Energy ("MDTE") section 271 proceeding that, within this 45-day period, it informs a license applicant of any work necessary to make a pole ready to receive the desired attachment ("make-ready work") if a reason relating to capacity or other factor enumerated in such federal and Massachusetts law precludes immediate attachment.⁴ It also testified that it commits to use its "best efforts" to complete any necessary make-ready work within 180 days.⁵

² 47 C.F.R. section 1.1403(b).

³ 220 CMR 45.03(2).

The attached Statement of Michael Brown, Vice President for Network Operations of Fiber Technologies, demonstrates that Verizon has failed to comply with its obligations, under the law and according to its commitments before the MDTE, to issue pole attachment licenses or make-ready estimates within 45 days of application or to complete makeready work within 180 days. As Mr. Brown's Statement reports, Fiber Technologies, through its wholly-owned subsidiary FT Networks, submitted to Verizon its applications for pole licenses in and around Worcester on June 14, 2000, and in and around Springfield on June 16, 2000. According to federal and Massachusetts law and Verizon's statement before the MDTE, therefore, Fiber Systems should have received licenses for poles not requiring make-ready work, and information regarding the make-ready work required for the remaining poles, on July 29, 2000, in Worcester and on July 31, 2000, in Springfield. Required makeready work should have been completed by December 11, 2000, in Worcester, and by December 13, 2000, in Springfield. To date, no poles have been licensed in either market. In the Worcester market, only 50% of the preconstruction pole survey – the very first step in licensing, which should be completed early in the initial 45-day period after submission of license applications -- has been completed. No makeready work has been undertaken or even scheduled. In the Springfield market, only 80% of the preconstruction survey has been completed. No makeready work has been begun or scheduled.

⁴ *New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts – Section 271 of the Telecommunications Act of 1996 Compliance Filing, MDTE Docket 99-271, Tr. 4124 - 25.*

⁵ *Id.*, Tr. 4125. Although a 180-day deadline for completion of makeready work may be reasonable, a policy promising only “best efforts” to meet such a deadline would permit virtually limitless delay and cannot be considered reasonable.

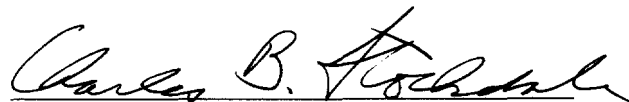
III. RECOMMENDATIONS

Fiber Technologies respectfully suggests that the Commission withhold approval of Verizon's instant application. Verizon's obstructing of the creation of competitive telecommunications networks by denying access to poles will restrict competition in markets such as Springfield and Worcester, forcing providers to rely on Verizon's own facilities. The absence of competitive facilities, in turn, will deny the public in these areas the full benefits of vital competition. Moreover, one must expect that Verizon's performance in providing access to poles would only become more obstructive of competition after a favorable Section 271 ruling, when regulatory scrutiny will be significantly reduced. We therefore respectfully recommend that the Commission deny approval of any Verizon application for authority to offer interLATA service in Massachusetts until Verizon has demonstrated that it has remedied its current deficiencies in processing pole attachment applications in a timely manner.

Respectfully submitted,

Fiber Technologies, LLC

By:



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Vice President and Corporate Counsel

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February 5, 2001

APPENDIX A

STATEMENT OF MICHAEL BROWN

My name is Michael Brown. I serve as Vice President for Network Operations for Fiber Technologies, LLC. In that capacity, I oversee the construction of outside plant by this company, including the procurement of pole attachment licenses by our subsidiary Fiber Technologies Networks, LLC (formerly named "Fiber Systems, LLC").

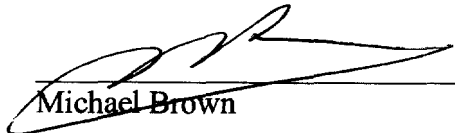
On June 14, 2000, Fiber Systems submitted to Verizon applications for attachments to poles in and around Worcester, Massachusetts. On June 16, 2000, Fiber Systems submitted to Verizon applications for attachment to poles in and around Springfield, Massachusetts. These are the only two markets in Massachusetts into which Fiber Technologies currently is seeking entry.

Once a pole attachment license application is received, a pole owner typically conducts a pre-construction survey. Such a survey is called for in the pole attachment agreement between Verizon and Fiber Technologies Networks in Massachusetts. This exercise allows a determination of whether the pole is ready, as is, to receive the requested attachment and, if it is ready, the precise location for the attachment. The pre-construction survey also allows identification of poles that are not suitable for immediate attachment. For those poles, the survey permits determination of the work necessary to allow the desired attachment (the "make-ready work"), whether that work is replacement of the pole with a larger one or the rearrangement of existing facilities on the pole. After the physical survey is completed, the pole owner uses the information it has gathered to issue licenses for the poles requiring no make-ready work and as the foundation for the performance of any necessary make-ready work. The pre-construction survey should begin immediately after receipt of the license application so that licenses can be issued within 45 days of submission of the license applications and any required make-ready work can be completed in a timely manner.

To date, Fiber Technologies has received no licenses from Verizon for any poles in the Worcester or Springfield areas. The process of pre-construction surveying of Verizon poles is only 50% complete in the Worcester market and 80% complete in the Springfield market. No makeready work has been begun in either market and no such work has been scheduled.

The foregoing is submitted under penalty of perjury and is true and correct to the best of my knowledge, information, and belief.

February 5, 2001


Michael Brown